

NEBRASKA ADMINISTRATIVE CODE

Title 48 - Department of Banking and Finance

Chapter 6 - AGENTS OF BROKER-DEALERS

001     GENERAL.

001.01 This Rule has been promulgated pursuant to authority delegated to the Director in Section 8-1120(3) of the Securities Act of Nebraska ("Act").

001.02 The Department has determined that this Rule relating to agents of broker-dealers is consistent with investor protection and is in the public interest.

001.03 The Director may, on a case-by-case basis, and with prior written notice to the affected persons, require adherence to additional standards or policies, as deemed necessary in the public interest.

001.04 The definitions in 48 NAC 2 shall apply to the provisions of this Rule, unless otherwise specified.

002     REGISTRATION. An agent may be registered to transact business in Nebraska if he or she complies with the Act and the rules promulgated thereunder.

003     CENTRAL REGISTRATION DEPOSITORY. The Department utilizes the Central Registration Depository (CRD) system to register agents, and to terminate, renew, and transfer agent registration.

004     APPLICATION. An agent's application for registration must be submitted to the Director by the employing broker-dealer.

004.01 Broker-dealers that are affiliated with the National Association of Securities Dealers (NASD broker-dealers) must submit the agent's Form U-4 and application fee to the Director through the CRD system. For purposes of Section 8-1103(4)(a) of the Act, a form submitted through the CRD shall be deemed filed with the Department when the record is transmitted to the Department for review.

004.02 Broker-dealers that are not affiliated with the National Association of Securities Dealers (non-NASD broker-dealers) must submit the agent's Form U-4 and application fee directly to the Director.

005     RENEWAL. An agent's registration must be renewed annually by the employing broker-dealer prior to the broker-dealer's December 31 renewal date.

005.01 NASD broker-dealers must submit the agent's renewal fee to the Director through the CRD system.

005.02 Non-NASD broker-dealers must submit the agent's renewal fee directly to the Director.

006    TERMINATION. An agent's termination notice (Form U-5) must be submitted by the former employing broker-dealer within thirty (30) days after the agent's termination.

006.01 NASD broker-dealers must submit the agent's Form U-5 to the Director through the CRD system.

006.02 Non-NASD broker-dealers must submit the agent's Form U-5 directly to the Director.

007    DUAL AND MULTIPLE REGISTRATION. Dual and multiple registration is prohibited in Nebraska except when an agent is in the process of transferring his or her registration or when the broker-dealers involved are affiliates.

007.01 Dual registration pending transfer is permitted only if the following conditions are satisfied:

007.01A The agent's new broker-dealer notifies the Director about the transfer within seven (7) days after the agent's termination with his or her former broker-dealer.

007.01B The agent's new broker-dealer submits the agent's Form U-4 to the Director within twenty-one (21) days after the notice of termination has been submitted.

007.01C The agent does not have a disciplinary history that must be disclosed on Form U-4.

007.01D Transfers by agents of broker-dealers which are members of the NASD must be accomplished pursuant to the Temporary Agent Transfer Program, adopted by the North American Securities Administrators Association and attached hereto.

007.02 An agent can be registered with more than one broker-dealer if the broker-dealers involved are affiliates.

007.02A Affiliate means a person who, directly or indirectly, controls, is controlled by, or is under common control with, another person.

007.02B For purposes of this section, control is defined as ownership, directly or beneficially, of eighty percent (80%) or more of the outstanding voting securities of another company.

008    QUALIFYING EXAMINATIONS. An agent is required to take and pass the following examinations administered by the NASD:

008.01 The Uniform Securities Agent State Law Examination (Series 63 examination) or the Uniform Combined State Law Examination (Series 66 examination); and

008.02 One of the following examinations or any predecessor examination:

008.02A The General Securities Representative Examination (Series 7 examination);

008.02B The Investment Company/Variable Contracts Limited Representative Examination (Series 6 examination) if the agent's registration will be limited to investment company products or if the agent will sell interests in viatical settlement contracts; or

008.02C The Direct Participation Programs Limited Representative Examination (Series 22 examination), if the agent's registration will be limited to direct participation programs.

008.02D The Director may waive the requirement of this section for agents of a broker-dealer whose registration is limited to securities of non-profit organizations if the director finds the waiver is consistent with investor protection and is in the public interest.

009     CORRECTION OF DOCUMENTS. If the information contained in any document filed with the Director is or becomes inaccurate or incomplete in any material respect, the agent shall file a correcting amendment on Form U-4 within the time period specified in the instructions to that form.

010     DISHONEST AND UNETHICAL BUSINESS PRACTICES.

010.01 The conduct set forth in 48 NAC 12.002 shall constitute "an act, practice or course of business which operates, or would operate, as a fraud or deceit upon another person" by an agent for purposes of Section 8-1102(1)(c) of the Act.

010.02 The conduct set forth in 48 NAC 12.003 and 48 NAC 12.004 shall constitute "dishonest or unethical business practices" by an agent for purposes of Section 8-1103(9)(a)(vii) of the Act.

010.03 The delineation of certain acts and practices is not intended to be all inclusive. Acts or practices not enumerated therein may also be deemed fraudulent and dishonest.